

REMARKS

Applicant would like to thank the Examiner for his kind indication of allowable subject matter in claims 1-13 and 20. Nevertheless, it is believed that all of claims 1-20 are allowable over the prior art. A detailed explanation of the reasons that claims 14-19 are believed to recite patentable subject matter follows below.

Rejections Under 35 U.S.C 102

The Examiner has rejected claim 19 under 35 USC § 102(b) as being anticipated by Gottfried (U.S. 3,779,599). Reconsideration of the rejection is respectfully requested.

As is paramount to a 102 rejection, in order to anticipate a claim, a cited reference must teach every element of a claim. In other words, a claim is anticipated only if each and every element, as set forth in the claim, is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631.

In this regard, claim 19 recites a changing board having a restraint system which is specifically configured for restraining the shoulders of an infant during a diaper change. Thus, claim 19 is specifically limited to reciting, in part, a board which is configured as a changing surface (in combination with a strap system). Such a board, as is known in the art, would therefore, of course, have a generally planar configuration (with or without minor contours) upon which an infant can lay while its diaper is changed. Conversely, Gottfried teaches a juvenile seating system for vehicles and nowhere even hints at the disclosure of a diaper changing surface. In sum, the structure taught by Gottfried is structurally very dissimilar from the combination as claimed in

claim 19 and claim 19 is believed to recite a very different combination of elements than anything disclosed in the Gottfried reference.

In view of these structural differences and since every element of claim 19 is not taught by the Gottfried reference, it is believed that claim 19 is allowable. Withdrawal of the rejection of claim 19 is therefore respectfully requested.

Rejections Under 35 U.S.C 103

The Examiner has rejected claims 14, 15, and 19 under 35 USC § 103(a) as being unpatentable over Alivizatos (U.S. 4,689,844) in view of Gottfried (U.S. 3,779,599). Additionally, the Examiner has rejected claims 16-18 as being unpatentable over Alivizatos (U.S. 4,689,844) in view of Gottfried (U.S. 3,779,599) and further in view of Nappe (U.S. 2,834,970). Reconsideration of the rejections is respectfully requested.

Generally speaking, to establish a prima facie case of obviousness three criteria must be met. First, there must be some suggestion or motivation to modify a cited reference or to combine more than one cited reference. MPEP 2142. Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference or references, when combined, must teach or suggest all the elements of applicant's claimed invention. *Id.* In meeting the foregoing criteria, it is essential that the prior art provide some motivation or suggestion to one of ordinary skill in the art to make applicant's claimed invention. *In re Vaeck*, 947 F.3d 488, 493 (Fed Cir. 1991). This teaching or suggestion to make the applicant's claimed invention must be found in the prior art, not in applicant's disclosure. *Id.* Considering this controlling law and the reasons set forth

below, Applicant submits that the Examiner has failed to establish a prima facie case of obviousness of claims 14-19.

First, in the instant case, none of the cited references by themselves or in combination with each other teach or suggest each and every limitation of applicant's invention. Specifically, the Alivizatos reference, which the Examiner relies on as the primary reference, does not teach a shoulder restraining means. The Examiner attempts to cure this deficiency by citing Gottfried. Nevertheless, neither Gottfried, nor Alivizatos teaches or discloses the problems believed to be solved by Applicant's invention as claimed. As a result, it can be inferred that the Examiner used Applicant's disclosure as a so-called blueprint for combining the elements of the various cited references, i.e. that the Examiner employed impermissible "hindsight reasoning" in formulating the subject rejections (by using Applicant's disclosure of a specific problem to pick and choose specific elements from unrelated references).

In this regard, although "any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning", it is only permissible "so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure." In re McLaughlin 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971).

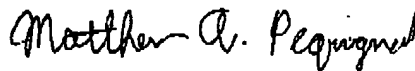
Thus, because the Gottfried and Alivizatos references are entirely unrelated to the problems addressed by the subject claims, their combination to arrive at an obviousness determination is believed to be erroneous.

CONCLUSIONS

Applicant respectfully requests reconsideration of claims 1-20 and submits that, in view of the arguments presented herein, the Examiner's rejections of the claims under 35 U.S.C. 102 and 103 have been overcome. In view thereof, the Examiner is respectfully requested to withdraw the subject rejections and the allowance of claims 1-20 is hereby solicited. It is believed that no additional fees are due at this time. If this is in error, the Commissioner is hereby authorized to charge any such fee to Deposit Account No. 50-0555.

If the Examiner feels that a telephone conversation would assist in bringing this case to conclusion, he is invited to contact the undersigned telephonically.

Respectfully Submitted,



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